

**REMARKS**

This amendment is responsive to the Office Action dated July 12, 2011 and received in this application. Claims 33 and 36 have been amended, and claims 39-47 have been added. *These amendments add no new matter.* Applicant respectfully requests reconsideration and allowance of the pending claims in light of these amendments and the following remarks.

Claims 33-38 were rejected under 35 U.S.C. § 101 as reciting non-statutory subject matter.

Applicant has amended independent claims 33 and 36 to recite a “non-transitory” computer readable medium as suggested in the Action.

Accordingly, Applicant requests that these grounds of rejection be withdrawn.

Claims 1, 8, 9, 16, 17, 24, 25 and 32 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pub. No. 2002/0015104 to Itoh et al. (“Itoh”). This rejection is traversed.

Claim 1 has been amended and now recites: *[a] display apparatus for presenting a moving image with less perceivable degradation, the apparatus comprising:*

*display control means for controlling display to cause display means to change a display of the moving image to a frame rate of 350 or 360 frames/sec when the moving image is a computer graphics image; and*

*the display means for displaying the moving image at the frame rate on the basis of control of the display control means, in which a display of each pixel on a screen is maintained during each frame period.*

Itoh does not disclose or suggest these claimed features.

Itoh discloses an image processing that is said to improve picture quality. The image processing incorporates input frame pictures to be displayed on the basis of an input picture signal and an input synchronizing signal. Output frame pictures are produced from input frame pictures using an interpolated picture, inserting a black raster picture, or thinning out the frame pictures, between the input frame pictures. This is done on the basis of picture information of the input frame picture to be displayed, and the input synchronizing signal and an output synchronizing signal.

There is no mention of causing the frame rate to be changed to any particular value when the moving picture is a computer graphics image, as claimed by Applicant, let alone the particular values as claimed by Applicant, or of changing the display to a frame rate of 350 or 360 frames/sec when the moving image is a computer graphics image, as claimed by Applicant.

Paragraph [0068] of Itoh merely states that the interpolation scheme may be applied to an input frame picture with a 360 Hz refresh to produce an output frame picture with a 480 Hz refresh rate. First, the output frame picture in this example is at 480 Hz. This is not 350 or 360 frames/sec, as claimed by Applicant. Additionally, there is no conditioning of such a particular frame rate on when the moving image is a computer graphics image, as claimed by Applicant. Still further, there is no disclosure or suggestion of changing the display rate to 350 or 360 frames/sec when the moving image is a computer graphics image. Accordingly, this example fails to disclose or suggest "*caus[ing] display means to change a display of the moving image to a frame rate of 350 or 360 frames/sec when the moving image is a computer graphics image.*"

Paragraph [0076] of Itoh mentions the possibility of a 360 frame/sec frame rate in a general sense. Itoh never mentions having this frame rate where the moving image is a computer graphics image, let alone causing the display means to have such a frame rate when the moving image is a computer graphics image.

The Action repeats the reference to paragraph [0076] and also points to paragraph [0008] as evidence of the claimed features. However, this is erroneous. Paragraph [0008] merely mentions computer graphics. This does not amount to a disclosure of "*caus[ing] display means to change a*

*display of the moving image to a frame rate of 350 or 360 frames/sec when the moving image is a computer graphics image,*” as claimed by Applicant. It merely mentions that computer graphic images could be processed, but makes no mention of changing the frame rate when the image is a computer graphics image, let alone changing it to the particularly-recited frame rate.

Paragraph [0130] merely indicates an output rate of 240 Hz and offers no disclosure whatsoever of the particular frame rate of 350 or 360 Hz or, furthermore, having the specifically claimed frame rate when the moving image is a computer graphics image.

The Action points to paragraphs [0131] and [0132], but these paragraphs merely confirm an output rate of 240 Hz and make no mention of the particular frame rate of 350 or 360 Hz. They also do not address the other deficiencies noted above.

Because Itoh fails to disclose, teach or suggest various features of claim 1, a *prima facie* anticipation rejection has not been established, and withdrawal of this rejection is respectfully requested. *See, e.g., Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”). *See also Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1566 (Fed. Cir. 1989). (“The identical invention must be shown in as complete detail as is contained in the ... claim.”).

For reasons similar to those provided regarding claim 1, independent claims 9, 17, 25, 33 and 36 are also neither disclosed nor suggested by Itoh. The dependent claims are distinct for their incorporation of the features respectively recited in the independent claims as well as their separately recited patentably distinct features.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1, 8, 9, 16, 17, 24, 25 and 32 under 35 U.S.C. § 102(b) as being anticipated by Itoh.

Claims 2, 10, 18 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Itoh in view of U.S. Pat. No. 6,870,523 to Ben-David et al. (“Ben-David”). This rejection is traversed.

Claims 2, 10, 18 and 26 depend from and thus incorporate the distinct features of the respective independent claims, as well as their own separately recited patentably distinct features. Ben-David is relied upon for alleged disclosure of 350 frame/sec frame rate, but offers no disclosure or suggestion of the above-described features that are clearly absent from Itoh.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 2, 10, 18 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Itoh in view of Ben-David.

This response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments supporting the patentability of the claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicant expressly does not acquiesce to the taking of Official Notice, and respectfully requests that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

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In view of the foregoing reasons, all claims are believed to be in condition for allowance. If any further issues remain, the Examiner is invited to telephone the undersigned representative Christopher M. Tobin, at (202) 955-8779 to resolve them.

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Respectfully submitted,

By \_\_\_\_\_

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